

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Steven Desmond Peterson,)	Case No. 4:21-cv-00725-DCC
)	
Petitioner,)	
)	
v.)	ORDER
)	
Nanette Barnes,)	
)	
Respondent.)	
)	

Petitioner, proceeding pro se, is seeking habeas corpus relief pursuant to 28 U.S.C. § 2241. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Thomas E. Rogers, III, for pre-trial proceedings and a Report and Recommendation ("Report"). On March 23, 2021, the Magistrate Judge issued a Report recommending that the Petition be dismissed without prejudice and without requiring Respondent to file a Return. ECF No. 11. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Petitioner filed objections to the Report. ECF No. 15.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the

Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

The Magistrate Judge recommends that the Petition be dismissed based on Petitioner’s filing found at Docket Entry Number 9 and labeled a Notice of Change of Address. In that document, Petitioner states that he “may be freed” and requests that all further correspondence from this Court be sent to a new address. ECF No. 9. Accordingly, the Magistrate Judge recommended finding that the Petition be dismissed because the action had been rendered moot by Petitioner’s release from incarceration. ECF No. 11. In his objections, Petitioner makes clear that he has not been released. ECF No. 15.

Therefore, the Court respectfully declines to adopt the recommendation of the Magistrate Judge. This matter is recommitted to the Magistrate Judge for further evaluation. The Clerk of Court is directed to update Petitioner’s address pursuant to the return address on the envelope attached to his objections.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

May 20, 2021
Spartanburg, South Carolina